STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of ALEXANDER MITCHELL, NATHAN MITCHELL, and NICHOLAS MITCHELL, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

WILLIAM MITCHELL,

Respondent-Appellant.

UNPUBLISHED
March 24, 2009

No. 286895
Clinton Circuit Court
Family Division
LC No. 06-019136-NA

Before: Jansen, P.J., and Borrello and Stephens, JJ.

PER CURIAM.

Respondent appeals by right the family court's order terminating his parental rights to the minor children under MCL 712A.19b(3)(c)(*i*), (g), and (j).[1] We affirm.

The family court did not clearly err by finding that §§ 19b(3)(c)(*i*) and (g)[2] had been proven by clear and convincing evidence. MCR 3.977(J), *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999); *In re Gazella*, 264 Mich App 668, 672; 692 NW2d 708 (2005).

The conditions that led to adjudication were respondent's drinking problem, the fact that respondent had allowed a known sex offender to reside in the family home, the fact that the home was dirty and kept in poor condition, and respondent's neglect of the children. At the time of termination, respondent had remained sober for more than a year and the sex offender no

[1] It is unclear whether the family court also terminated respondent's parental rights pursuant to § 19b(3)(c)(*ii*). Nonetheless, we need not resolve this matter because only one statutory ground need be proven to support termination of parental rights. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991).

[2] We need not determine whether § 19b(3)(j) was proven by clear and convincing evidence because, as noted, only one statutory ground need be proven to support termination of parental rights. *In re McIntyre*, 192 Mich App at 50.

longer resided with the family. However, although respondent had attended visitation with his children, he saw them only under supervised circumstances for a limited period of time each week. Respondent had not requested additional visitation time or asked for permission to take any of the children unsupervised. Respondent did not know the names of the children's doctors, teachers, or therapists, and he did not take the initiative to inquire into his children's medical conditions, learning disabilities, and other needs.

More importantly, respondent had left his children and his home during the pendency of this case and moved in with his sister and brother-in-law, despite the fact that his sister lived more than 30 miles from where he worked. Respondent was subsequently asked to find housing that would be suitable for the children, but he claimed that he could not move because he needed to remain close to his sister and brother-in-law, because he did not want to move away from his support groups, and because his salary was insufficient to afford suitable arrangements. Accordingly, even though respondent complied with other services that were offered in this case, he did not comply with the requirement to have his own home for the children.

Respondent's financial difficulties also remained a concern. The family home had been sold because respondent became unable to sustain the mortgage payments. Respondent had the means to make a much better income than he earned during the pendency of this matter. Indeed, he had a degree in chemical engineering. However, according to his sister, respondent "did not want a big company to make millions of dollars on his idea while he would only get paid pennies." Because of this belief, respondent neglected to look for other work, thereby hampering his abilities to better support himself and his children.

While respondent did much of what was specifically asked of him by the agency, he had no motivation or initiative to go one step further. He was perfectly content doing the bare minimum in this case. We are left with the impression that respondent simply did not care about what happened to his children and that he was either too lazy or too disinterested to act as a concerned parent. Upon review of the record in this case, one cannot help but take note of respondent's overwhelmingly lackadaisical and indifferent attitude toward his children's wellbeing. The family court properly determined that serious and substantial concerns continued to exist with respect to respondent's housing situation, that respondent continued to neglect his children, and that these conditions would not likely be rectified within a reasonable time considering the children's ages. MCL 712A.19b(3)(c)(*i*); *In re Trejo*, 462 Mich 341, 359-360; 612 NW2d 407 (2000) (holding that § 19b(3)(c)(*i*) was proven by clear and convincing evidence where the respondent had failed to obtain and maintain suitable housing for her children and had failed to offer a viable plan to do so in the future). The family court also properly determined that respondent had failed to provide proper care and custody for the children and that there was no reasonable expectation that he would do so within a reasonable time. MCL 712A.19b(3)(g). Our conclusion in this regard is not changed by the fact that respondent loved his children and did not intend to be a neglectful parent. Subsection 19b(3)(g) applies "without regard to intent," and culpability or blameworthiness is therefore not required under the statute. See *In re Jacobs*, 433 Mich 24, 37; 444 NW2d 789 (1989).

Once petitioner had established at least one statutory ground by clear and convincing evidence, the family court was required to terminate respondent's parental rights unless it appeared that termination would be clearly contrary to the children's best interests. MCL 712A.19b(5).[3] The children in this case had special needs, including ADHD, and required supervision, routine, and structure. The two older boys were in special education, and the youngest boy had behavioral issues. As noted previously, respondent did not know the children's doctors, teachers, or therapists, and did not make any effort to do so. He did not take advantage of opportunities to spend additional time with his children, and there was no evidence that he would likely attend to his children's special needs in the foreseeable future. The family court did not err by finding that termination was not clearly contrary to the children's best interests. MCR 3.977(J); *In re Gazella*, 264 Mich App at 672.

Finally, respondent contends that he was denied the right to a fair and impartial judge. He asserts that the family court judge had already decided to terminate his parental rights before hearing all the evidence in this case. We disagree. In civil cases, due process generally requires notice of the nature of the proceedings, a meaningful time and manner to be heard, and an impartial decision maker. *Cummings v Wayne Co*, 210 Mich App 249, 253; 533 NW2d 13 (1995). The party claiming bias "must overcome a heavy presumption of judicial impartiality." *People v Wells*, 238 Mich App 383, 391; 605 NW2d 374 (1999).

The family court utilized a form order published by the State Court Administrative Office. The order was dated "5/14/2008," and contained the printed phrase, "Child support obligations for William Mitchell shall be terminated effective 5/14/2008." Respondent contends that in ordering the termination of his child support obligations on May 14, 2008, the first day of the termination hearing, the family court must have already reached its decision to terminate his parental rights without hearing all the evidence.

This contention is speculative at best. We acknowledge that we do not know why the order would have been dated on the first day of the termination hearing. However, "[a]bsent actual personal bias or prejudice against either a party or the party's attorney, a judge will not be disqualified." *Id*. Other than the order itself, we find no evidence in the record to support respondent's claim that the court was biased against him. In fact, the court afforded the parties great leeway in taking their evidence and accommodating their witnesses, and the court's cogent and well-reasoned decision from the bench showed no signs of judicial prejudice. We conclude that respondent has failed to overcome the strong presumption of judicial impartiality in this case. *Id*.

Affirmed.

/s/ Kathleen Jansen
/s/ Stephen L. Borrello

[3] After respondent's parental rights were terminated, the statute was amended by 2008 PA 199. The statute now requires the family court to affirmatively find that termination is in the child's best interests before terminating parental rights.